

# **EXHIBIT E**

**In the Matter of:**

FTC, et al. v. Quincy Bioscience Holding, et al.

*September 24, 2021*  
*Dominik Alexander - Confidential*

**Condensed Transcript with Word Index**



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<p style="text-align: right;">1</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 SOUTHERN DISTRICT OF NEW YORK</p> <p>3</p> <p>4 FEDERAL TRADE COMMISSION and )</p> <p>5 THE PEOPLE OF THE STATE OF )</p> <p>6 NEW YORK, by LETITIA JAMES, ) Matter No.</p> <p>7 Attorney General of the State ) 1:17-cv-00124-LLS</p> <p>8 of New York, ) CONFIDENTIAL</p> <p>9 Plaintiffs, ) ATTORNEYS' EYES</p> <p>10 v. ) ONLY</p> <p>11 QUINCY BIOSCIENCE HOLDING )</p> <p>12 COMPANY, et al., )</p> <p>13 Defendants. )</p> <p>14 -----)</p> <p>15</p> <p>16 Friday, September 24, 2021</p> <p>17 Via Zoom</p> <p>18</p> <p>19 The above-entitled matter came on for the</p> <p>20 remote video deposition of DOMINIK ALEXANDER PH.D.,</p> <p>21 pursuant to notice, at 11:00 a.m., Eastern Standard</p> <p>22 Time; 8:00 a.m., Pacific Standard Time, before Sally Jo</p> <p>23 Quade, Notary Public.</p> <p>24</p> <p>25</p>	<p style="text-align: right;">3</p> <p>1 ON BEHALF OF CORPORATE DEFENDANTS:</p> <p>2 GEOFFREY CASTELLO, ESQ.</p> <p>3 GLENN T. GRAHAM, ESQ.</p> <p>4 LAUREN MARGOLIES, ESQ.</p> <p>5 Kelley Drye &amp; Warren</p> <p>6 One Jefferson Road</p> <p>7 Second Floor</p> <p>8 Parsippany, New Jersey 07054</p> <p>9 (973) 503-5922</p> <p>10 gcastello@kelleydrye.com</p> <p>11</p> <p>12 ON BEHALF OF THE DEFENDANT UNDERWOOD:</p> <p>13 MICHAEL B. DeLEEuw, ESQ.</p> <p>14 TAMAR WISE, ESQ.</p> <p>15 Cozen O'Connor</p> <p>16 45 Broadway</p> <p>17 16th Floor</p> <p>18 New York, New York 10006</p> <p>19 (212) 908-1331</p> <p>20 mdeleeuw@cozen.com</p> <p>21</p> <p>22 ALSO PRESENT:</p> <p>23 William Ducklow, FTC</p> <p>24 Jaclyn Daboula, New York AG</p> <p>25</p>
<p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 ON BEHALF OF THE FEDERAL TRADE COMMISSION:</p> <p>4 ANDREW WONE, ESQ.</p> <p>5 ANNETTE SOBERATS, ESQ.</p> <p>6 EDWARD GLENNON, ESQ.</p> <p>7 Federal Trade Commission</p> <p>8 600 Pennsylvania Avenue, N.W.</p> <p>9 Washington, DC 20850</p> <p>10 (202) 326-2921</p> <p>11 awone@ftc.gov</p> <p>12</p> <p>13</p> <p>14 ON BEHALF OF THE STATE OF NEW YORK:</p> <p>15 KATE MATUSCHAK, ESQ.</p> <p>16 Office of the New York State Attorney General</p> <p>17 Consumer Frauds and Protection Bureau</p> <p>18 28 Liberty Street</p> <p>19 New York, New York 10005</p> <p>20 (212) 416-6189</p> <p>21 kate.matuschak@ag.ny.gov</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">4</p> <p>1 FEDERAL TRADE COMMISSION</p> <p>2 I N D E X</p> <p>3</p> <p>4 WITNESS: EXAMINATION:</p> <p>5 Dominik D. Alexander, Ph.D.</p> <p>6 By Mr. Wone 5</p> <p>7</p> <p>8</p> <p>9 EXHIBITS DESCRIPTION FOR ID</p> <p>10 Number 1 Alexander Report 9</p> <p>11 Number 2 Alexander Meta-Analysis Study 43</p> <p>12</p> <p>13 Number 3 Alexander Meta-Analysis of RCTs 44</p> <p>14 Number 4 Revised Cochrane risk-of-bias tool for randomized trials 50</p> <p>15</p> <p>16 Number 5 Moran Study 107</p> <p>17 Number 6 Lerner Study 108</p> <p>18 Number 7 Madison Memory Study 109</p> <p>19 Number 8 Re-analysis of Madison Memory Study 115</p> <p>20</p> <p>21 Number 9 Quincy Spreadsheet 159</p> <p>22</p> <p>23 Number 10 Mixed Model Results - ISL 160</p> <p>24</p> <p>25 Number 11 Yurko-Mauro PLOS One Study 162</p> <p>26</p> <p>27 Number 12 MMS List of Subgroup Analyses 198</p> <p>28</p> <p>29</p> <p>30</p>

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<p>6</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>PROCEEDINGS</p> <p>- - - - -</p> <p>VIDEO TECHNICIAN: Here begins disk 1 in the video deposition of Dominik D. Alexander, Ph.D., M.S.P.H., taken in the matter of Federal Trade Commission and the People of the State of New York by Letitia James, Attorney General of the State of New York, v. Quincy Bioscience Holding Company, et al. in the United States District Court, Southern District of New York, Matter Number 1:17-CV-00124-LLS.</p> <p>Today's date is September 24th, 2021. The time on the video monitor is 8:02 a.m., Pacific time. This deposition is being held remotely via Zoom video teleconference. The court reporter is Sally Quade, on behalf of For The Record, Inc. The video camera operator is Eric Vavrasek on behalf of For The Record, Inc.</p> <p>Counsel and others, please introduce themselves and state whom they represent, beginning with the party noticing the deposition.</p> <p>MR. WONE: Good morning. My name is Andrew Wone and I am appearing on behalf of the Federal Trade Commission. Joining me are attorneys Edward Glennon and Annette Soberats and investigator William Ducklow.</p> <p>MS. MATUSCHAK: Kate Matuschak, I'm here on</p>	<p>8</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>hear a question that I say, please say so and I will repeat it. If you don't understand a question that I ask, please let me know and I will rephrase it.</p> <p>If you realize an earlier answer that you gave was incomplete or incorrect, please say that -- you let me know and you'll be given a chance to supplement or modify your answer.</p> <p>If you would like to take a break at any point throughout the day, please let me know. If a question is pending, I ask that you answer the question before we take a break.</p> <p>A. Understood.</p> <p><b>Q. Great. If you answer a question, I'll assume you have heard it and understood it and have given me your best recollection. Because the deposition is being recorded or conducted remotely, it's important that you speak your answers. The court reporter cannot record nodding or head shaking. Do you understand?</b></p> <p>A. I do.</p> <p><b>Q. It's also important that only one person speak at a time because the court reporter can only record one person talking. So if you could please let me finish my question before you begin your answer, and I'll do my best to give you a chance to finish your responses before asking the next question.</b></p>

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1 numerical result being assessed likely to have been  
2 selected, on the basis of the results from ... multiple  
3 eligible outcome measurements (e.g. scales, definitions,  
4 time points) within the outcome domain?"

5 BY MR. WONE:

6 **Q. And in the next column, the one that's**  
7 **contained -- do you see that, Dr. Alexander?**

8 MR. CASTELLO: Andrew, you're breaking up again.  
9 Every time you look away. I know it's hard, I'm not  
10 being critical, I just, I can't hear at all. I don't  
11 know if the court reporter can, but I can't.

12 MR. WONE: I understand.

13 In the next column, the one labeled Elaboration,  
14 do you see that, Dr. Alexander?

15 THE WITNESS: I see the column, yes, the middle  
16 column.

17 BY MR. WONE:

18 **Q. So in the row 5.2, let's see, starting and go to**  
19 **the third line, there's a sentence that starts with,**  
20 **"If." Do you see that, Dr. Alexander?**

21 A. I do, I do, yes.

22 **Q. And do you agree with that sentence?**

23 MR. CASTELLO: Objection, falls outside of the  
24 scope of the expert -- the witness' expert report.

25 THE WITNESS: No, as stated, not necessarily.

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1 There may be an instance where that could occur, but we  
2 would have to unpack that a bit more. It says --  
3 there's a "high" at the end, it says, "there is a high  
4 risk of bias in the fully reported result." That's not  
5 necessarily true. What you would have to consider when  
6 interpreting that statement is the totality of the  
7 patterns of associations across all of those multiple  
8 measurements.

9 So if we had a situation where we're looking at  
10 multiple outcome measurements, for example, and let's  
11 say if we're doing some kind of genetic profiling and we  
12 have 100 different outcomes, and two of them were  
13 statistically significant, and 98 were completely  
14 divergent, that could be an example where that outcome  
15 may not -- may contribute to bias or may be biased and  
16 not consistent with the fully reported result.

17 So, again, we would have to go back and look at  
18 the context of that evaluation for those outcomes to  
19 determine the patterns of associations across those  
20 other end points.

21 BY MR. WONE:

22 **Q. And that is something you do when you're**  
23 **evaluating -- when you evaluated the RCTs for the**  
24 **Omega-3 heart study, look at how -- what measures were**  
25 **used in the study and what was reported?**

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1 MR. CASTELLO: Objection.

2 THE WITNESS: Well, I certainly consider all  
3 elements of the published and reported data, if  
4 available, and epidemiology is about looking at patterns  
5 of associations, and it's investigating patterns of  
6 associations and trends, and that's certainly in line  
7 with what I do epidemiologically.

8 MR. WONE: Okay. I think we can take a break  
9 now, if that's fine with you, Geoff.

10 MR. CASTELLO: Yeah, thank you, Andrew,  
11 appreciate it.

12 MR. WONE: We'll go off the record.

13 VIDEO TECHNICIAN: Just let me read us off. We  
14 are going off the record at 9:40 a.m. [Pacific Standard  
15 Time.]

16 (Whereupon, there was a recess in the  
17 proceedings.)

18 VIDEO TECHNICIAN: We are going back on the  
19 record at 10:02 a.m. [Pacific Standard Time.]

20 BY MR. WONE:

21 **Q. Dr. Alexander, I wanted to pick up with something**  
22 **you mentioned earlier. I think you mentioned the**  
23 **distinction between medical and general causation. Is**  
24 **that right?**

25 A. I mentioned medical causation, I mentioned

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1 general causation. I said they are not mutually  
2 exclusive.

3 **Q. What is medical causation?**

4 A. Medical causation typically involves a specific  
5 cause in a specific person that a clinician commonly  
6 assesses and makes.

7 **Q. So is medical causation within general causation?**

8 A. Medical causation is informed by general  
9 causation, meaning if exposure to X does not cause  
10 disease Y, then Mr. So and so's disease was not caused  
11 by exposure X.

12 **Q. Okay. And going back to the -- before the break**  
13 **we were talking about pre-specification, in terms -- in**  
14 **the context of an RCT. Could you explain how -- how**  
15 **would you determine whether something in an RCT was**  
16 **pre-specified?**

17 A. Well, what -- first of all, what do you mean by  
18 pre -- what was pre-specified I guess is my question for  
19 clarity.

20 **Q. For example, how would you determine whether the**  
21 **measure being reported was -- in the report was**  
22 **pre-specified?**

23 A. The measure being reported meaning the type of  
24 outcome being reported, that could be stated in the  
25 objective of the study, that could be in the

<p style="text-align: right;">245</p> <p>1 "healthy and able to comply," in terms of the</p> <p>2 individuals with the scores. And I said, again,</p> <p>3 "participants were randomized." And something I recited</p> <p>4 to you earlier, "exclusion and inclusion criteria is</p> <p>5 most applicable to that AD8 0-2 grouping." And I wrote</p> <p>6 the words, "Uniform, standardized and harmonized."</p> <p>7 <b>Q. And how about on the study protocol, did you</b></p> <p>8 <b>write any words on that?</b></p> <p>9 A. Not a single word.</p> <p>10 <b>Q. Did you otherwise make any markings on the</b></p> <p>11 <b>document like underlining?</b></p> <p>12 A. I underlined a few things, but nothing of</p> <p>13 substance. It was just during -- during the break.</p> <p>14 <b>Q. Okay. Those are the questions I have. I repeat</b></p> <p>15 <b>our request on the record that the defendants produce</b></p> <p>16 <b>the documents that Dr. Alexander printed out and</b></p> <p>17 <b>referred to throughout his deposition, and that the</b></p> <p>18 <b>deposition be held open given that Dr. Alexander</b></p> <p>19 <b>reviewed documents that have not been identified with</b></p> <p>20 <b>specificity to the plaintiffs.</b></p> <p>21 MR. CASTELLO: We will take the document request</p> <p>22 under advisement, and as I mentioned earlier, we would</p> <p>23 oppose that motion, but we will talk that through with</p> <p>24 you.</p> <p>25 MR. DE LEEUW: We will oppose that as well.</p>	<p style="text-align: right;">247</p> <p>1 record at 4:51 p.m. [Pacific Standard Time.]</p> <p>2 (Reading and signature reserved.)</p> <p>3 (Whereupon, at 7:51 p.m., the deposition was</p> <p>4 adjourned.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">246</p> <p>1 MR. WONE: Do the defendants plan to produce a</p> <p>2 list of documents -- either the documents themselves or</p> <p>3 a list of Bates numbers that correspond to the documents</p> <p>4 that Dr. Alexander reviewed?</p> <p>5 MR. CASTELLO: I'm going to speak to my</p> <p>6 co-counsel and we will get back to you and we should be</p> <p>7 able to get back to you on Monday.</p> <p>8 MR. WONE: Okay. Kate?</p> <p>9 MS. MATUSCHAK: Thank you. This is Kate</p> <p>10 Matuschak from New York State Attorney General's Office.</p> <p>11 I have no questions today, but I also would hold the</p> <p>12 deposition open and reserve the right to ask additional</p> <p>13 questions once we know the identity of all of the</p> <p>14 documents that Dr. Alexander has reviewed.</p> <p>15 MR. CASTELLO: I don't have any questions.</p> <p>16 MR. WONE: Okay.</p> <p>17 MR. DE LEEUW: Yeah, Dr. Alexander, Michael de</p> <p>18 Leeuw. Could you read the entire contents of the white</p> <p>19 pages to us right now? No, I'm just kidding, we're</p> <p>20 done, no questions.</p> <p>21 THE WITNESS: On the screen you mean?</p> <p>22 MR. DE LEEUW: Yeah, put it on there.</p> <p>23 THE WITNESS: Yeah, put it on.</p> <p>24 VIDEO TECHNICIAN: Okay. This concludes the</p> <p>25 deposition of Dominik Alexander, we are going off the</p>	<p style="text-align: right;">248</p> <p>1 DISTRICT OF COLUMBIA, to wit:</p> <p>2</p> <p>3 I, Sally Jo Quade, CERT, the officer before whom</p> <p>4 the foregoing deposition was taken, do hereby certify</p> <p>5 that the within-named witness personally appeared before</p> <p>6 me at the time and place herein set out, and after</p> <p>7 having been duly sworn by me, according to law, was</p> <p>8 examined by counsel.</p> <p>9 I further certify that the examination was</p> <p>10 recorded stenographically by me and this transcript is a</p> <p>11 true record of the proceedings.</p> <p>12 I further certify that I am not of counsel to any</p> <p>13 of the parties, nor an employee of counsel, nor related</p> <p>14 to any of the parties, nor in any way interested in the</p> <p>15 outcome of this action.</p> <p>16</p> <p>17 As witness my hand and notarial seal this 1st day</p> <p>18 of October, 2021.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>s/Sally Jo Quade Sally Jo Quade, CERT Notary Public</p> <p>MY COMMISSION EXPIRES: 7/14/2023</p>

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1 CERTIFICATE OF DEPONENT  
2  
34 I hereby certify that I have read and examined  
the foregoing transcript, and the same is a true and  
accurate record of the testimony given by me.  
5  
67 Any additions or corrections that I feel are  
necessary, I will attach on a separate sheet of paper to  
the original transcript.  
8  
910 I hereby certify, under penalty of perjury, that  
I have affixed my signature hereto  
on the date so indicated.  
11  
1213 DATED:  
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1718 DOMINIK D. ALEXANDER, Ph.D.  
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1 WITNESS: DOMINIK D. ALEXANDER, PH.D.  
23 DATE: FRIDAY, SEPTEMBER 22, 2021  
45 CASE: FTC, et al., v. ZURIXX, et al.  
67 Please note any errors and the corrections thereof on  
this errata sheet. The rules require a reason for any  
change or correction. It may be general, such as "To  
correct stenographic error," or "To clarify the record,"  
or "To conform with the facts."  
89 PAGE LINE CORRECTION REASON FOR CHANGE  
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